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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,011	08/28/2003	Duncan G. Robins	02TN-105706	2106
26371	7590	08/25/2005		
FOLEY & LARDNER			EXAMINER	
777 EAST WISCONSIN AVENUE			KHAIRA, NAVNEET K	
SUITE 3800				
MILWAUKEE, WI 53202-5308			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/653,011	ROBINS, DUNCAN G.	
	Examiner Navneet Sonia Khaira	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on August 8, 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/08/03</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-9, 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Zelenak (5,645,404).

Referring to claims 1,2, 8 and 14, Zelenak discloses a personal hydration system to facilitate the delivery of fluid from a reservoir (18, fig 2), through a tube (46), to an open end (62) of said tube comprising:

a pump (38, fig 2) having a mouth-actuated switch and connected to said tube (62) to provide, when said switch (56) is mouth-activated by manipulation of the dispensing end, a flow of fluid to said user.

a switch (56) which acts as a sensor responsive (col 9, line 41) to an action of said user's mouth at said open end (fig 7) and an electrical circuit operably connected (col 9, lines 19-21) to said sensor to provide power to said pump to reduce the need for manual dexterity in operating the pump.

Referring to claims 3 and 9, Zelenak further discloses sensor (56) includes the ends of conducting wires (58, fig 7), wherein said electrical circuit is responsive to changes in the resistance between said conducting wire ends, and wherein said action is the touching of conducting wire ends by the lips of said user (col 10, lines 19-26).

Referring to claims 5 and 11, Zelenak further discloses pump is a electronic motor system (14, col 6, lines 60-66).

Referring to claims 6 and 12, Zelenak further discloses including a bendable support for said tube (32, col 6, lines 13-15).

Referring to claims 7 and 13, Zelenak further discloses pump that is mechanically powered with electric motor (col 6, line 60) to avoid the need for large batteries.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4 and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zelenak (5,645,404) in view of Chen (US5,524,612).

Referring to claims 4 and 10, Zelenak discloses a hydration system, but does not include a mechanical switch at the dispensing open end, wherein electrical circuit is responsive to said mechanical switch wherein the action of the mouth of said user is the touching of the user's lips against said mechanical switch according to the claim. Chen discloses a mechanical switch at the dispensing open end, wherein electrical circuit is responsive to said mechanical switch wherein the action of the mouth of said user is the touching of the user's lips against said mechanical switch (col 3, lines 1-2).

It would have been obvious to one of ordinary skill in the art to have substituted the mouth piece (fig 7) of Zelenak with the switch in mouthpiece of Chen in order to avoid suction by the user and to allow flow while the switch is actuated as taught by Chen.

Citation of Related Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gardner et al (US 6,070,767), Winefordner et al (US 5,911,406), Bradley (US 6,283,344), references also disclosed portable hydration systems.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet Sonia Khaira whose telephone number is 571-272-7142. The examiner can normally be reached on 9am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL MAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700